

IN THE CIRCUIT, SUPERIOR AND PROBATE COURTS OF ST. JOSEPH COUNTY

STATE OF INDIANA

NOTICE OF PROPOSED AMENDMENT TO GENERAL AND ADMINISTRATIVE RULES
AND REQUEST FOR SUPREME COURT APPROVAL
OF CASELOAD ALLOCATION PLAN AMENDMENTS

The St. Joseph Circuit, Superior and Probate Courts propose to amend the Local General and Administrative Rules including amendments to their caseload allocation plan for courts in St. Joseph County, subject to the approval of the Indiana Supreme Court.

Comments may be made until July 1, 2008 to Lisa A. Plencner, Court Administrator, St. Joseph Circuit Court, 101 S. Main Street, South Bend, IN 46601, or by email at LPLENCNE@co.st-joseph.in.us.

These rules shall be effective January 1, 2009, subject to approval by the Indiana Supreme Court.

Dated this 3rd day of June, 2008.

Lisa A. Plencner
Court Administrator
Court Administrator
St. Joseph Circuit Court

PROPOSED AMENDMENTS TO LOCAL RULES 100 SERIES

Rule LR71-AR00-102. Conduct, Dress, and Court House Policies.

102.3. Appearance and Dress. Every person who enters a court house in St. Joseph County should be appropriately dressed. Lawyers should appear for court proceedings in professional attire; litigants, ~~and~~ witnesses and spectators should appear in appropriate attire. Examples of clothing that is inappropriate and is prohibited from being worn during court proceedings includes, but is not limited to:

- (1) Hats or caps;
- (2) Outer garments such as topcoats, overcoats, jackets, or overshoes;
- (3) Clothing that exposes the midriff;
- (4) Shorts of any kind;
- (5) Sleeveless shirts (i.e. “muscle shirts”);
- (6) Shower shoes (i.e. “flip-flops”);
- (7) Suggestive or otherwise inappropriate clothing (i.e. poorly fitting, slovenly, or uncleanly).

...

Rule LR71-AR1-107. Joint Local Caseload Allocation Plan for St. Joseph County.

107.1. Caseload Review. Not later than October 1 of each year, a committee composed of the Judge of the Circuit Court, the Judge of the Probate Court, and the Chief Judge of the Superior Court, shall meet in person, telephonically, or by other means and shall evaluate each court’s caseload data, as reported by the Division of the State Court Administration.

107.2. Special Circumstances. The committee shall consider in addition to the actual caseload data, any special circumstances relevant to evaluating the various caseloads of the various Courts and Judges in St. Joseph County. These special circumstances shall include such matters as death penalty cases, administrative and special Judge service, availability of physical resources, and any other relevant factors.

107.3. Statistical Deviation. Based upon the foregoing caseload evaluation for each Court within the County, the committee shall determine whether or not a sufficient statistical deviation occurs between the Courts which would warrant a transfer of cases within St. Joseph County from one court to another or a limitation during the following year upon what case types may be filed in certain courts or before certain Judges in order to more effectively and efficiently provide services to the citizens of St. Joseph County.

107.4. Caseload Allocation Plan and Transfer of Cases. In the event the committee determines a significant statistical deviation exists and is likely to continue to exist the following year, the committee shall unanimously adopt a written plan providing for the assignment of cases and/or for the transfer of cases from one Court to another in order to more equally distribute cases among and between the various Courts within St. Joseph County or requiring that certain types of cases only be filed in certain courts or assigned to certain Judges therein. Such transfer of cases or limitation on filing shall take into consideration the specialized jurisdictional attributes of the Probate Court and endeavor to transfer cases that fit within a receiving Judge's statutory jurisdiction. In the event that either cases

transferring in or out of Probate Court are outside the normal statutory jurisdiction of the receiving Judge, the committee shall designate the receiving Judge as a special Judge of the court that retains jurisdiction over the original proceeding. The committee shall also take into consideration the impact of such transfer upon other local agencies such as the Prosecutor's Office, Public Defender's Office, Sheriff's Department, Local Law Enforcement, County Clerk's Office, Probation Departments, as well as the general citizenry and the cost of such transfers. The caseload allocation plan may be memorialized as an appendix to this rule.

107.5. Procedures Following Transfer. Once a case is assigned or transferred pursuant to the caseload allocation ~~distribution~~ plan adopted by the committee into another Court, the case shall be heard and processed as all other cases originally filed within that Court.

[Adopted July ____, 2006, effective January 1, 2009.]

APPENDIX A TO LOCAL GENERAL

AND ADMINISTRATIVE RULES

CASELOAD ALLOCATION PLAN

FOR COURTS IN ST. JOSEPH COUNTY, INDIANA

I. Organization of the Courts of St. Joseph County:

As of January 1, 2009, the Courts of St. Joseph County are organized and assigned judicial officers as follows:

- (1) St. Joseph Circuit Court – one (1) judge and two (2) magistrate judges;
- (2) St. Joseph Superior Court – eight (8) judges and two (2) magistrate judges; and
- (3) St. Joseph Probate Court – one (1) judge and three (3) magistrate judges.

II. Designation of Judicial Officers to Hear Civil, Criminal and Juvenile Cases:

(1) Judicial Officers Designated to Hear Civil Cases: Civil Cases (other than small claims matters) shall be heard by the judge and the magistrate judges of the Circuit Court, and by the judges and/or magistrate judges of the Superior Court designated by the Chief Judge of the Superior Court to hear civil cases;

(2) Judicial Officers Designated to Hear Felony Criminal Cases: Felony criminal cases shall be heard by the judges and/or magistrate judges of the Superior Court designated by the Chief Judge of the Superior Court to hear felony criminal cases;

(3) Judicial Officers Designated to Hear Small Claims Cases: Small claims matters shall be heard by the judges and/or magistrate judges of the Superior Court designated by the Chief Judge of the Superior Court to hear small claims matters;

(4) Judicial Officers Designated to Hear Traffic and Misdemeanor Cases: Unless otherwise assigned to a felony criminal court for judicial economy because a defendant has pending felony, misdemeanor and/or probation revocation matters, traffic and misdemeanor matters shall be heard by the judges and/or magistrate judges of the Superior Court designated by the Chief Judge of the Superior Court to hear traffic and misdemeanor matters.

(5) Judicial Officers Designated to Hear Paternity, Delinquency, Dependency, and Adoption Cases: Paternity, delinquency, dependency, and adoption matters shall be assigned to the Judge of the Probate Court unless the Judge assigns the matter to be heard by a magistrate judge of the Probate Court.

(6) Judicial Officers Designated to Hear Title IV-D Cases: Pursuant to LR71-FL00-430 et seq., Title IV-D Cases may be assigned to the Title IV-D Court and heard by a magistrate judge of the Probate Court designated to preside over Title IV-D hearings.

III. Protocol for Assignment of Cases Among the Courts of St. Joseph County:

(1) Civil cases (other than small claims): With the exception of cases that must be assigned statutorily to the Probate Court because of its designation as the court with exclusive jurisdiction over juvenile cases (paternity, delinquency, dependency, adoption, etc.) or to the Circuit Court (license reinstatement, name changes, etc.), civil cases (other than small claims cases) shall be assigned randomly among the judges and/or magistrate judges of the Circuit Court and the Superior Court designated to hear civil matters.

(2) Felony Criminal Cases: With the exception of criminal cases that must be assigned to the Circuit Court by L71-CR2.2-303.1 or 303.2, felony criminal cases shall be assigned randomly among the judges and/or magistrate judges of the Superior Court designated to hear criminal cases. However, and notwithstanding this method of random assignment, in all felony criminal cases, except MR cases, where co-defendants are charged, cases shall be reassigned to a single judge or magistrate judge, as follows: (a) where co-defendants have been equally assigned to different judges, the judge having the lowest assigned cause number shall be assigned/
reassigned all co-defendant cases; or (b) in the event that co-defendants have been unequally assigned to different judges, the judge having the greatest number of co-defendants shall be assigned/reassigned all co-defendant cases. Further, the Chief Judge of the Superior Court may reassign cases involving a defendant who has a pending case to the judge presiding over the earliest assigned cause number. The Chief Judge of the Superior Court may reassign MR cases or other felony cases where such reassignment is in the interest of judicial economy or dictated by the weighted caseload balancing requirements.

(3) Small Claims Cases: With the exception of small claims matters filed by the City of Mishawaka, the School City of Mishawaka or a resident of the City of Mishawaka where all defendants are residents of the City of Mishawaka, small claims cases shall be assigned to South Bend Division of the Superior Court. For convenience of parties, a small claims case that must be assigned to the South Bend Division may be filed in the Mishawaka Division, but the filing party or counsel shall indicate to the Clerk on the Chronological Case Summary that the matter must be docketed in the South Bend Division, and the Clerk shall promptly forward the pleadings to the South Bend Division for filing and processing.

(4) Traffic and Misdemeanor Cases: With the exception of ordinance or traffic matters filed by the City of Mishawaka, traffic and misdemeanor cases shall be filed in and assigned to the South Bend Division of the Superior Court.

(5) Paternity, Delinquency, Dependency, and Adoption Cases: Paternity, delinquency, dependency, and adoption cases shall be filed in Probate Court.

IV. Exceptions to the Protocol for Assignment of Cases:

(1) Mass Filing of Collection Cases (other than small claims): Upon request and designation by the Judge of the Circuit Court and the Chief Judge of the Superior Court, a lawyer or law firm may be approved to make mass filing of collection cases (other than small claims). Unless otherwise directed by the Judge of the Circuit Court or the Chief Judge of the Superior Court based on weighted caseload balancing requirements or otherwise, cases filed by a lawyer or law firm approved for mass filing shall be assigned to the Circuit Court.

(2) Special Judge or Transfer: Nothing in these local rules shall be interpreted to prevent a party from taking a change of judge or requesting transfer of a case as otherwise authorized by statute or rule of court.

(3) Temporary or Permanent Assignment of Cases: Nothing in these local rules shall be interpreted to prevent the regularly presiding judge of a Court from assigning a case on a temporary or permanent basis to a Magistrate Judge, Special Judge, Senior Judge, Temporary Judge, Judge Pro Tem, Referee, or other duly appointed judicial officer.

(4) Caseload Balancing: Nothing in these local rules shall be interpreted to prevent the Judge of the Circuit Court, the Chief Judge of the Superior Court or the Judge of the Probate Court, either jointly or individually, from reassigning a case for the purpose of caseload balancing based on the weighted caseload criteria or other caseload balancing criteria.

(5) Emergency or Exigent Circumstances: Nothing in these local rules shall be interpreted to prevent the Judge of the Circuit Court, the Chief Judge of the Superior Court or the Judge of the Probate Court, either jointly or individually, from assigning a case based on emergency or exigent circumstances.

V. Authority and Effective Date:

(1) This Caseload Allocation Plan is adopted pursuant to the requirements of A.R. 1 (E) and LR71-AR1-107.1

(2) The effective date of this Caseload Allocation Plan is January 1, 2009.

[Adopted July ____, 2006, effective January 1, 2009.]

PROPOSED AMENDMENTS TO LOCAL RULE 400 SERIES:

LR71-FL00-405. Expectations of ~~Attorneys~~ and Parents and requirements for Attorneys.

It is expected that attorneys and parents in family cases will conduct themselves in concert with the courts to serve as co-problem solvers.

It is in the best interest of children that parents and counsel clarify and pursue the best interests of all family members with particular deference to the needs and welfare of the children.

It is expected that parents and counsel will pursue all opportunities to resolve disputes and conflicts before relying on the Court for a determination. It is required that, if counsel has appeared for both parents, counsel shall meet and discuss resolution at least twenty-four (24) hours prior to any hearing on a petition to modify support, custody or parenting time or a rule to show cause to enforce an order for support, custody, parenting time or protection, or certify to the court why such meeting is not practicable or appropriate. As the State does not represent either of the parents in a Title IV-D case, this requirement does not apply to petitions or rules to show cause filed by the Title IV-D agency; however, the attorney for the Title IV-D agency and counsel for the parent(s) are encouraged to meet and discuss resolution of these matters in advance of any hearing.

It is expected that parents and counsel will treat one another with courtesy and respect.

It is ~~expected~~ required that counsel will furnish their family clients with a copy of these rules and assist them in fully understanding and observing both their spirit and intent.

LR71-FL00-411. Mediation.

Unless excused by court order after certification by counsel or by an unrepresented party of an emergency or another reason indicating that mediation would be detrimental or counterproductive to one or more of the parents or children, parents shall mediate ~~Contested matters shall be referred to mediation, both before provisional hearings involving unemancipated children and after a final decree., on motion of either party with the consent of the Court, or on the Court's own motion.~~

[Adopted July ___, 2006, effective January 1, 2009.]

PROPOSED AMENDMENTS TO LOCAL RULES 900 SERIES:

LOCAL RULES REGARDING ELECTRONIC NEWS COVERAGE PILOT PROJECT IN THE ST. JOSEPH CIRCUIT COURT (900 SERIES)

~~Rule LR71-AR00-901. Intent and Scope of Local Rules.~~

~~——— On May 9, 2006, the Indiana Supreme Court issued an Order (hereinafter “Authorizing Order”) establishing a pilot project allowing access to select Indiana trial courts by electronic news media outlets (hereinafter “Media Pilot Project”). With certain limitations, this Media Pilot Project allows video and audio coverage, still news photography, and radio news coverage of proceedings within the specified Indiana trial courts. The Indiana Supreme Court authorized the St. Joseph Circuit Court (hereinafter “the Court”) to participate in this Media Pilot Project.~~

Rule LR71-AR00-902. Authority of the Court.

——— Nothing in the following Rules shall be construed to limit the authority of the Court to prohibit or limit the filming or audio recording of any person or proceeding.

Rule LR71-AR00-903. Designation of Local Media Advisory Committee.

——— The St. Joseph Circuit Court hereby designates the Law and Media Committee of the St. Joseph County Bar Association to provide advice and assistance in the implementation of this Media Pilot Project. The media representatives appointed to the Law and Media Committee shall have exclusive authority to designate the videographer, still photographer, and audio recorders for use by the media pool. In accordance with the Authorizing Order, the Committee shall also designate a media coordinator to insure compliance with these Rules and the Authorizing Order, and to coordinate the pooling arrangement. By agreeing to serve as the pool videographer, still photographer, or audio recorder, the participating media organization agrees to share the recorded images and sounds with any requesting media organization unless otherwise directed by the Circuit Court Judge.

Rule LR71-AR00-904. Consent.

——— Pursuant to the Authorizing Order, the parties must consent to participate in this Media Pilot Project. Prior to any hearing or trial, each party shall advise the Court of their consent or nonconsent to participation in the Media Pilot Project. A party shall indicate consent by executing a written consent form provided by the Court. Consent once given shall remain in force and effect unless the Court authorizes a party to withdraw its consent for good cause.

~~Rule LR71-AR00-905. Construction; Effect on Other Local Rules.~~

~~———— This Local Rule will be liberally construed to effectuate the purposes delineated in the Authorizing Order. However, notwithstanding this Local Rule, no person shall be authorized to photograph, videograph, or record images or sound in the St. Joseph Circuit Court without the express, prior, written authorization of the regularly presiding judge.~~

LOCAL RULE FOR COURT FEES FOR ST. JOSEPH COUNTY (900 SERIES)

Rule LR71-AR00-901. Intent and Scope of Fee Schedule.

The Courts adopt the following schedule of fees for referrals to offset the costs of court services and to reduce the burden on the county taxpayer. The Courts find that the following rules establish a reasonable schedule of user fees for the Courts of St. Joseph County.

Rule LR71-AR00-902. Fee Schedule for CSAP and Drug Court.

The Courts adopt the following schedule of fees for referrals to the Court Substance Abuse Program (CSAP) and Drug Court.

902.1. CSAP User Fee. A party referred to CSAP shall pay a user fee of \$400.00, which is payable to the Clerk of the Court. This CSAP user fee will include an assessment, participation in drug education, if recommended, case monitoring and case closure.

902.2. Drug Court User Fee. A party referred to Drug Court shall pay a user fee of \$500.00, which is payable to the Clerk of the Court. This Drug Court user fee will include an assessment, participation in drug education, if recommended, case monitoring and case closure.

902.3. Urine Drug Screening Fees. Urine Drug Screening Fees payable to the Court Substance Abuse Program laboratory for deposit with the auditor as follows:

(a) Drug Court Urine Drug Screening Fees: \$20.00 for positive drug screens, \$15.00 for negative drug screens, \$3.00 for no specimen fees, \$2.00 for breathalyzer fee, and \$45.00 for confirmation testing at an off-site laboratory.

(b) CSAP Urine Drug Screening Fees: \$15.00 for drug screens, \$3.00 for no specimen fees, \$2.00 for breathalyzer fee, and \$45.00 for confirmation testing at an off-site laboratory.

902.4. Transfer Fees. Transfer fees shall be payable to the Clerk of the Court as follows:

(a) Transfer to another jurisdiction: A transfer fee of \$75.00 shall be paid to the Clerk of the Court to transfer a case to another state or in-state jurisdiction, or to transfer directly to an in-state or out-of-state treatment provider without alcohol and drug assessment.

(b) Transfer from another jurisdiction: A transfer fee of \$150.00 shall be paid to the Clerk of the Court for cases transferred from another jurisdiction.

902.5. Case Monitoring Fees. A party referred for case monitoring only shall pay a fee of \$75.00, which includes monitoring compliance with treatment at a court-ordered treatment provider and for monitoring of urine drug screens.

902.6. Alcohol and Drug Assessments. A party referred for an alcohol and drug assessment without other services shall pay a fee of \$150.00.

Rule LR71-AR00-903. Late Payment Fee for Court Costs, Fines and Civil Penalties.

Pursuant to Indiana Code 33-37-5-22, the Courts of St. Joseph County adopt a late payment fee in the sum of twenty-five (\$25.00) for defendants who have not tendered timely payment of costs, fines or civil penalties.

903.1 Definitions.

903.1.1.1 Definition of Defendant. For the purposes of this local rule, an individual who has committed a crime, violated a statute defining an infraction, violated an ordinance of a municipal corporation, or committed a delinquent act, is defined as a “defendant.”

903.1.1.2 Definition of Costs. For the purposes of this local rule, costs includes court costs and fees assessed by a Court.

903.2 Assessment of Late Payment Fee. A defendant who is required to pay court costs (including fees), a fine, or civil penalty and who has not been determined by the Court imposing the costs, fine or civil penalty to be indigent shall pay, in addition to the costs, fine or civil penalty, a late payment fee in the sum of \$25.00 to the Clerk of the Court if the defendant fails to pay the costs, fine or civil penalty in full before the later of the following: (a) the end of the business day on which the Court enters the conviction or judgment; or (b) the end of the period specified in a payment schedule set for the payment of court costs, fines, and civil penalties adopted for the operation of the Courts of St. Joseph County.

903.3 Clerk to Assess and Collect Late Payment Fee. When a defendant meets the criteria described in LR71-AR00-903.2, the Clerk shall assess and collect a late payment fee in the sum of \$25.00, unless the late payment fee is suspended by Court order as provided by LR71-AR00-903.4. The Clerk may take all appropriate steps to collect late payment fees, including without limitation the retention of legal counsel to effectuate collection proceedings.

903.4 Court May Suspend Late Payment Fee. Notwithstanding LR71-AR00-903.2, the Court that imposed the costs, fine or civil penalty may suspend the late payment fee required by this Rule if the Court finds that the Defendant has demonstrated good cause for failure to make a timely payment of the previously assessed costs, fine or civil penalty and issues an order to that effect directing the

Clerk of the Court to suspend the assessment and collection of the Late Payment Fee.

[Adopted July ____, 2006, effective January 1, 2009.]

PROPOSED AMENDMENTS TO LOCAL RULES 1000 SERIES:

LOCAL RULE FOR COURT ALCOHOL AND DRUG PROGRAM FEES FOR ST. JOSEPH COUNTY (1000 SERIES)

Reserved.

~~Rule LR71-AR00-1001. Intent and Scope of Fee Schedule.~~

~~————The Courts adopt the following schedule of fees for referrals to the Court Substance Abuse Program (CSAP) and Drug Court.~~

~~1001.1. CSAP User Fee. A party referred to CSAP shall pay a user fee of \$400.00, which is payable to the Clerk of the Court. This CSAP user fee will include an assessment, participation in drug education, if recommended, case monitoring and case closure.~~

~~1001.2. Drug Court User Fee. A party referred to Drug Court shall pay a user fee of \$500.00, which is payable to the Clerk of the Court. This Drug Court user fee will include an assessment, participation in drug education, if recommended, case monitoring and case closure.~~

~~1001.3. Urine Drug Screening Fees. Urine Drug Screening Fees payable to the Court Substance Abuse Program laboratory for deposit with the auditor as follows:~~

~~(c) Drug Court Urine Drug Screening Fees: \$20.00 for positive drug screens, \$15.00 for negative drug screens, \$3.00 for no specimen fees, \$2.00 for breathalyzer fee, and \$45.00 for confirmation testing at an off-site laboratory.~~

~~(d) CSAP Urine Drug Screening Fees: \$15.00 for drug screens, \$3.00 for no specimen fees, \$2.00 for breathalyzer fee, and \$45.00 for confirmation testing at an off-site laboratory.~~

~~**1001.4. Transfer Fees.** Transfer fees shall be payable to the Clerk of the Court as follows:~~

~~(c) Transfer to another jurisdiction: A transfer fee of \$75.00 shall be paid to the Clerk of the Court to transfer a case to another state or in-state jurisdiction, or to transfer directly to an in-state or out-of-state treatment provider without alcohol and drug assessment.~~

~~(d) Transfer from another jurisdiction: A transfer fee of \$150.00 shall be paid to the Clerk of the Court for cases transferred from another jurisdiction.~~

~~**1001.5. Case Monitoring Fees.** A party referred for case monitoring only shall pay a fee of \$75.00, which includes monitoring compliance with treatment at a court-ordered treatment provider and for monitoring of urine drug screens.~~

~~**1001.6. Alcohol and Drug Assessments.** A party referred for an alcohol and drug assessment without other services shall pay a fee of \$150.00.~~

[Adopted July ___, 2006, effective January 1, 2009.]